

D/L. 31.
September 22, 2023.
MNS

**Calcutta High Court
In The Circuit Bench at Jalpaiguri
Appellate Side**

CRM (NDPS) 762 of 2023

In Re: - An application for bail under Section 439 of the Code of Criminal Procedure filed on 13.09.2023 in connection with Pradhannagar Police Station Case No. 109 of 2023 dated 18.02.2023 under Sections 21(c)/22(c)/27A of the Narcotic Drugs and Psychotropic Substances Act, 1985.

And

In the matter of: Tajibur Sheikh @ Tajibur Seikh

.... Petitioner

Mr. Mr. Arjun Chowdhury,
Mrs. Pratusha Dutta Chowdhury,
Ms. Riya Agarwal

... for the petitioner

Mr. Abhijit Srkar,
Mr. Tapan Bhattacharjee

... for the State.

1. Learned counsel for the petitioner argues that the provision of Section 41B Cr.P.C. has squarely been violated since, even as per the FIR, the witness who signed the memo of arrest hails from a different State.
2. Learned counsel appearing for the State opposes the prayer for bail.
3. Since it is an admitted position that the sole witness who signed the memo of arrest is from a different State, we find that there is specific contravention of Section 41B (b)(i) of the Cr.P.C.
4. Hence, the rigours of Section 37 of the NDPS Act are not applicable.

5. Accordingly, CRM (NDPS) 762 of 2023 is allowed, thereby granting bail to the petitioner on condition that the petitioner furnishes bond of Rs.10,000/-, with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Judge, Special Court under NDPS Act, Siliguri.
6. The petitioner shall not leave the territorial jurisdiction of the trial court during the entire period of trial and shall attend the trial on each and every date.
7. The petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts and circumstances of the case so as to dissuade such person from disclosing such facts to any police officer or the court and/or tamper with the evidence in any manner whatsoever.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)